

**Calendar No. 787**

108TH CONGRESS  
2D SESSION

**S. 1438**

**[Report No. 108-397]**

To provide for equitable compensation of the Spokane Tribe of Indians of the Spokane Reservation in settlement of claims of the Tribe concerning the contribution of the Tribe to the production of hydropower by the Grand Coulee Dam, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JULY 22 (legislative day, JULY 21), 2003

Ms. CANTWELL (for herself, Mr. INOUE, and Mrs. MURRAY) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

OCTOBER 8, 2004

Reported by Mr. CAMPBELL, with an amendment and an amendment to the title

[Strike out all after the enacting clause and insert the part printed in *italie*]

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**A BILL**

To provide for equitable compensation of the Spokane Tribe of Indians of the Spokane Reservation in settlement of claims of the Tribe concerning the contribution of the Tribe to the production of hydropower by the Grand Coulee Dam, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
 2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Spokane Tribe of Indi-  
 5       ans of the Spokane Reservation Grand Coulee Dam Equi-  
 6       table Compensation Settlement Act”.

7       **SEC. 2. FINDINGS.**

8       Congress finds the following:

9               (1) From 1927 to 1931, at the direction of  
 10       Congress, the Corps of Engineers investigated the  
 11       Columbia River and its tributaries to determine sites  
 12       at which power could be produced at low cost.

13              (2) The Corps of Engineers—

14                      (A) identified a number of sites, including  
 15                      the site at which the Grand Coulee Dam is lo-  
 16                      cated; and

17                      (B) recommended that power development  
 18                      at those sites be performed by local govern-  
 19                      mental authorities or private utilities under the  
 20                      Federal Power Act (16 U.S.C. 791a et seq.).

21              (3) Under section 10(e) of that Act (16 U.S.C.  
 22       803(e)), a licensee is required to compensate an In-  
 23       dian tribe for the use of land under the jurisdiction  
 24       of the Indian tribe.

1           (4) In August 1933, the Columbia Basin Com-  
2 mission, an agency of the State of Washington, re-  
3 ceived a preliminary permit from the Federal Power  
4 Commission for water power development at the  
5 Grand Coulee site.

6           (5) In the mid-1930's, the Federal Government,  
7 which is not subject to the Federal Power Act (16  
8 U.S.C. 791a et seq.)—

9                 (A) federalized the Grand Coulee Dam  
10 project; and

11                (B) began construction of the Grand Cou-  
12 lee Dam.

13           (6) At the time at which the Grand Coulee  
14 Dam project was federalized, the Federal Govern-  
15 ment recognized that the Spokane Tribe and the  
16 Confederated Tribes of the Colville Reservation had  
17 compensable interests in the Grand Coulee Dam  
18 project, including compensation for—

19                 (A) the development of hydropower;

20                 (B) the extinguishment of a salmon fishery  
21 on which the Spokane Tribe was almost com-  
22 pletely financially dependent; and

23                 (C) the inundation of land with loss of po-  
24 tential power sites previously identified by the  
25 Spokane Tribe.

1           (7) In the Act of June 29, 1940, Congress—

2               (A) in the first section (16 U.S.C. 835d)  
3           granted to the United States—

4               (i) all rights of Indian tribes in land  
5               of the Spokane Tribe and Colville Indian  
6               Reservations that were required for the  
7               Grand Coulee Dam project; and

8               (ii) various rights-of-way over other  
9               land under the jurisdiction of Indian tribes  
10              that were required in connection with the  
11              project; and

12              (B) in section 2 (16 U.S.C. 835e) provided  
13              that compensation for the land and rights-of-  
14              way was to be determined by the Secretary of  
15              the Interior in such amounts as the Secretary  
16              determined to be just and equitable.

17           (8) In furtherance of that Act, the Secretary of  
18           the Interior paid—

19               (A) to the Spokane Tribe, \$4,700; and

20               (B) to the Confederated Tribes of the  
21              Colville Reservation, \$63,000.

22           (9) In 1994, following 43 years of litigation be-  
23           fore the Indian Claims Commission, the United  
24           States Court of Federal Claims, and the United  
25           States Court of Appeals for the Federal Circuit,

1 Congress ratified an agreement between the Confed-  
2 erated Tribes of the Colville Reservation and the  
3 United States that provided for damages and annual  
4 payments of \$15,250,000 in perpetuity, adjusted an-  
5 nually, based on revenues from the sale of electric  
6 power from the Grand Coulee Dam project and  
7 transmission of that power by the Bonneville Power  
8 Administration.

9 (10) In legal opinions issued by the Office of  
10 the Solicitor of the Department of the Interior, a  
11 Task Force Study conducted from 1976 to 1980 or-  
12 dered by the Committee on Appropriations of the  
13 Senate, and hearings before Congress at the time at  
14 which the Confederated Tribes of the Colville Res-  
15 ervation Grand Coulee Dam Settlement Act (Public  
16 Law 103-436; 108 Stat. 4577) was enacted, it has  
17 repeatedly been recognized that—

18 (A) the Spokane Tribe suffered damages  
19 similar to those suffered by, and had a case le-  
20 gally comparable to that of, the Confederated  
21 Tribes of the Colville Reservation; but

22 (B) the 5-year statute of limitations under  
23 the Act of August 13, 1946 (25 U.S.C. 70 et  
24 seq.) precluded the Spokane Tribe from bring-  
25 ing a civil action for damages under that Act.

1           (11) The inability of the Spokane Tribe to  
2       bring a civil action before the Indian Claims Com-  
3       mission can be attributed to a combination of fac-  
4       tors, including—

5           (A) the failure of the Bureau of Indian Af-  
6       fairs to carry out its advisory responsibilities in  
7       accordance with that Act; and

8           (B) an attempt by the Commissioner of In-  
9       dian Affairs to impose improper requirements  
10      on claims attorneys retained by Indian tribes,  
11      which caused delays in retention of counsel and  
12      full investigation of the potential claims of the  
13      Spokane Tribe.

14          (12) As a consequence of construction of the  
15      Grand Coulee Dam project, the Spokane Tribe—

16          (A) has suffered the loss of—

17              (i) the salmon fishery on which the  
18          Spokane Tribe was dependent;

19              (ii) identified hydropower sites that  
20          the Spokane Tribe could have developed;  
21          and

22              (iii) hydropower revenues that the  
23          Spokane Tribe would have received under  
24          the Federal Power Act (16 U.S.C. 791a et

1                   seq.) had the project not been federalized;  
2                   and

3                   (B) continues to lose hydropower revenues  
4                   that the Federal Government recognized were  
5                   owed to the Spokane Tribe at the time at which  
6                   the project was constructed.

7                   (13) More than 39 percent of the land owned  
8                   by Indian tribes or members of Indian tribes that  
9                   was used for the Grand Coulee Dam project was  
10                  land of the Spokane Tribe.

11 **SEC. 3. STATEMENT OF PURPOSE.**

12                  The purpose of this Act is to provide fair and equi-  
13                  table compensation to the Spokane Tribe, using the same  
14                  proportional basis as was used in providing compensation  
15                  to the Confederated Tribes of the Colville Reservation, for  
16                  the losses suffered as a result of the construction and op-  
17                  eration of the Grand Coulee Dam project.

18 **SEC. 4. DEFINITIONS.**

19                  In this Act:

20                   (1) SECRETARY.—The term “Secretary” means  
21                   the Secretary of the Treasury.

22                   (2) CONFEDERATED TRIBES ACT.—The term  
23                   “Confederated Tribes Act” means the Confederated  
24                   Tribes of the Colville Reservation Grand Coulee

1 Dam Settlement Act (Public Law 103-436; 108  
2 Stat. 4577).

3 ~~(3) FUND ACCOUNT.~~—The term “Fund Ac-  
4 count” means the Spokane Tribe of Indians Settle-  
5 ment Fund Account established under section 5(a).

6 ~~(4) SPOKANE TRIBE.~~—The term “Spokane  
7 Tribe” means the Spokane Tribe of Indians of the  
8 Spokane Reservation, Washington.

9 **SEC. 5. SETTLEMENT FUND ACCOUNT.**

10 ~~(a) ESTABLISHMENT OF ACCOUNT.~~—There is estab-  
11 lished in the Treasury an interest-bearing account to be  
12 known as the “Spokane Tribe of Indians Settlement Fund  
13 Account”.

14 ~~(b) DEPOSIT OF AMOUNTS.~~—

15 ~~(1) INITIAL DEPOSIT.~~—On the date on which  
16 funds are made available to carry out this Act, the  
17 Secretary shall deposit in the Fund Account, as pay-  
18 ment and satisfaction of the claim of the Spokane  
19 Tribe for use of land of the Spokane Tribe for gen-  
20 eration of hydropower for the period beginning on  
21 June 29, 1940, and ending on November 2, 1994,  
22 an amount that is equal to 39.4 percent of the  
23 amount paid to the Confederated Tribes of the  
24 Colville Reservation under section 5(a) of the Con-  
25 federated Tribes Act, adjusted to reflect the change,



1 during the period beginning on the date on which  
2 the payment described in subparagraph (A) was  
3 made to the Confederated Tribes of the Colville Res-  
4 ervation and ending on the date of enactment of this  
5 Act, in the Consumer Price Index for all urban con-  
6 sumers published by the Department of Labor.

7 (2) SUBSEQUENT DEPOSITS.—On September  
8 30 of the first fiscal year that begins after the date  
9 of enactment of this Act, and on September 30 of  
10 each of the 5 fiscal years thereafter, the Secretary  
11 shall deposit in the Fund Account an amount that  
12 is equal to 7.88 percent of the amount authorized to  
13 be paid to the Confederated Tribes of the Colville  
14 Reservation under section 5(b) of the Confederated  
15 Tribes Act through the end of the fiscal year during  
16 which this Act is enacted, adjusted to reflect the  
17 change, during the period beginning on the date on  
18 which the payment to the Confederated Tribes of the  
19 Colville Reservation was first made and ending on  
20 the date of enactment of this Act, in the Consumer  
21 Price Index for all urban consumers published by  
22 the Department of Labor.

23 (c) ANNUAL PAYMENTS.—On September 1 of the  
24 first fiscal year after the date of enactment of this Act,  
25 and annually thereafter, the Secretary shall pay to the

1 Spokane Tribe an amount that is equal to 39.4 percent  
 2 of the annual payment authorized to be paid to the Con-  
 3 federated Tribes of the Colville Reservation under section  
 4 5(b) for the Confederated Tribes Act for the fiscal year.

5 **SEC. 6. USE AND TREATMENT OF SETTLEMENT FUNDS.**

6 (a) **TRANSFER OF FUNDS TO SPOKANE TRIBE.**—

7 (1) **INITIAL TRANSFER.**—Not later than 60  
 8 days after the date on which the Secretary receives  
 9 from the Spokane Business Council written notice of  
 10 the adoption by the Spokane Business Council of a  
 11 resolution requesting that the Secretary execute the  
 12 transfer of settlement funds described in section  
 13 5(a), the Secretary shall transfer all or a portion of  
 14 the settlement funds, as appropriate, to the Spokane  
 15 Business Council.

16 (2) **SUBSEQUENT TRANSFERS.**—If not all funds  
 17 described in section 5(a) are transferred to the Spo-  
 18 kane Business Council under an initial transfer re-  
 19 quest described in paragraph (1), the Spokane Busi-  
 20 ness Council may make subsequent requests for, and  
 21 the Secretary of the Treasury may execute subse-  
 22 quent transfers of, those funds.

23 (b) **USE OF INITIAL PAYMENT FUNDS.**—Of the set-  
 24 tlement funds described in subsections (a) and (b) of sec-  
 25 tion 5—

1           ~~(1)~~ 25 percent shall be—

2                   (A) reserved by the Spokane Business  
3           Council; and

4                   (B) used for discretionary purposes of gen-  
5           eral benefit to all members of the Spokane  
6           Tribe; and

7           ~~(2)~~ 75 percent shall be used by the Spokane  
8           Business Council to carry out—

9                   (A) a resource development program;

10                  (B) a credit program;

11                  (C) a scholarship program; or

12                  (D) a reserve, investment, and economic  
13           development program.

14           ~~(c)~~ USE OF ANNUAL PAYMENT FUNDS.—Annual  
15           payments made to the Spokane Tribe under section 5(c)  
16           may be used or invested by the Spokane Tribe in the same  
17           manner and for the same purposes as other tribal govern-  
18           mental funds.

19           ~~(d)~~ APPROVAL BY SECRETARY.—Notwithstanding  
20           any other provision of law—

21                   (1) the approval of the Secretary of the Treas-  
22           ury or the Secretary of the Interior for any payment,  
23           distribution, or use of the principal, interest, or in-  
24           come generated by any settlement funds transferred

1 or paid to the Spokane Tribe under this Act shall  
 2 not be required; and

3 ~~(2) the Secretary of the Treasury and the Sec-~~  
 4 ~~retary of the Interior shall have no trust responsi-~~  
 5 ~~bility for the investment, supervision, administration,~~  
 6 ~~or expenditure of those funds after the date on~~  
 7 ~~which the funds are transferred to or paid to the~~  
 8 ~~Spokane Tribe.~~

9 ~~(c) TREATMENT OF FUNDS FOR CERTAIN PUR-~~  
 10 ~~POSES.—The payments and distributions of any portion~~  
 11 ~~of the principal, interest, and income generated by the set-~~  
 12 ~~tlement funds described in section 5 shall be treated in~~  
 13 ~~the same manner as payments or distributions under sec-~~  
 14 ~~tion 6 of the Saginaw Chippewa Indian Tribe of Michigan~~  
 15 ~~Distribution of Judgment Funds Act (Public Law 99–346;~~  
 16 ~~100 Stat. 677).~~

17 ~~(f) TRIBAL AUDIT.—After the date on which the set-~~  
 18 ~~tlement funds described in section 5 are transferred or~~  
 19 ~~paid to the Spokane Tribe, the funds—~~

20 ~~(1) shall be considered to be Spokane Tribe~~  
 21 ~~governmental funds; and~~

22 ~~(2) shall be subject to an annual tribal govern-~~  
 23 ~~mental audit.~~

1 **SEC. 7. SATISFACTION OF CLAIMS.**

2       Payment by the Secretary under section 5 constitutes  
3 full satisfaction of the claim of Spokane Tribe to a fair  
4 share of the annual hydropower revenues generated by the  
5 Grand Coulee Dam project from June 29, 1940, through  
6 the fiscal year preceding the fiscal year in which this Act  
7 is enacted.

8 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

9       There are authorized to be appropriated such sums  
10 as are necessary to carry out this Act.

11 **SECTION 1. SHORT TITLE.**

12       *This Act may be cited as the “Spokane Tribe of Indi-*  
13 *ans of the Spokane Reservation Grand Coulee Dam Equi-*  
14 *table Compensation Settlement Act”.*

15 **SEC. 2. FINDINGS.**

16       *Congress finds that—*

17               *(1) from 1927 to 1931, at the direction of Con-*  
18 *gress, the Corps of Engineers investigated the Colum-*  
19 *bia River and its tributaries to determine sites at*  
20 *which power could be produced at low cost;*

21               *(2) under section 10(e) of the Federal Power Act*  
22 *(16 U.S.C. 803(e)), when licenses are issued involving*  
23 *tribal land within an Indian reservation, a reason-*  
24 *able annual charge shall be fixed for the use of the*  
25 *land, subject to the approval of the Indian tribe hav-*  
26 *ing jurisdiction over the land;*

1           (3) *in August 1933, the Columbia Basin Com-*  
 2           *mission, an agency of the State of Washington, re-*  
 3           *ceived a preliminary permit from the Federal Power*  
 4           *Commission for water power development at the*  
 5           *Grand Coulee site;*

6           (4) *had the Columbia Basin Commission or a*  
 7           *private entity developed the site, the Spokane Tribe*  
 8           *would have been entitled to a reasonable annual*  
 9           *charge for the use of its land;*

10          (5) *in the mid-1930s, the Federal Government,*  
 11          *which is not subject to licensing under the Federal*  
 12          *Power Act (16 U.S.C. 792 et seq.)—*

13                (A) *federalized the Grand Coulee Dam*  
 14                *project; and*

15                (B) *began construction of the Grand Coulee*  
 16                *Dam;*

17          (6) *when the Grand Coulee Dam project was fed-*  
 18          *eralized, the Federal Government recognized that—*

19                (A) *development of the project affected the*  
 20                *interests of the Spokane Tribe and the Confed-*  
 21                *erated Tribes of the Colville Reservation; and*

22                (B) *it would be appropriate for the Spokane*  
 23                *and Colville Tribes to receive a share of revenue*  
 24                *from the disposition of power produced at Grand*  
 25                *Coulee Dam;*

1           (7) *in the Act of June 29, 1940 (16 U.S.C. 835d*  
2     *et seq.), Congress—*

3           (A) *granted to the United States—*

4                 (i) *in aid of the construction, oper-*  
5                 *ation, and maintenance of the Columbia*  
6                 *Basin Project, all the right, title, and inter-*  
7                 *est of the Spokane Tribe and Colville Tribes*  
8                 *in and to the tribal and allotted land with-*  
9                 *in the Spokane and Colville Reservations,*  
10                *as designated by the Secretary of the Inte-*  
11                *rior from time to time; and*

12               (ii) *other interests in such land as re-*  
13                *quired and as designated by the Secretary*  
14                *for certain construction activities under-*  
15                *taken in connection with the project; and*

16           (B) *provided that compensation for the land*  
17            *and other interests was to be determined by the*  
18            *Secretary in such amounts as the Secretary de-*  
19            *termined to be just and equitable;*

20         (8) *pursuant to that Act, the Secretary paid—*

21                 (A) *to the Spokane Tribe, \$4,700; and*

22                 (B) *to the Confederated Tribes of the*  
23                 *Colville Reservation, \$63,000;*

24         (9) *in 1994, following litigation under the Act of*  
25         *August 13, 1946 (commonly known as the “Indian*

1       *Claims Commission Act*” (60 Stat. 1049, chapter 959;  
2       *former 25 U.S.C. 70 et seq.*)), Congress ratified the  
3       *Colville Settlement Agreement*, which required—

4               (A) for past use of the Colville Tribes’ land,  
5               a payment of \$53,000,000; and

6               (B) for continued use of the Colville Tribes’  
7               land, annual payments of \$15,250,000, adjusted  
8               annually based on revenues from the sale of elec-  
9               tric power from the Grand Coulee Dam project  
10              and transmission of that power by the Bonne-  
11              ville Power Administration;

12             (10) the Spokane Tribe, having suffered harm  
13             similar to that suffered by the Colville Tribes, did not  
14             file a claim within the Indian Claims Commission  
15             Act’s 5-year statute of limitations;

16             (11) neither the Colville Tribes nor the Spokane  
17             Tribe filed claims for compensation for use of their  
18             land with the Commission before August 13, 1951, but  
19             both Tribes filed unrelated land claims prior to Au-  
20             gust 13, 1951;

21             (12) in 1976, over objections by the United  
22             States, the Colville Tribes were successful in amend-  
23             ing their 1951 Claims Commission land claims to  
24             add their Grand Coulee claim;



1           (13) the Spokane Tribe had no such claim to  
2       amend, having settled its Claims Commission land  
3       claims with the United States in 1967;

4           (14) the Spokane Tribe has suffered significant  
5       harm from the construction and operation of Grand  
6       Coulee Dam;

7           (15) Spokane tribal acreage taken by the United  
8       States for the construction of Grand Coulee Dam  
9       equaled approximately 39 percent of Colville tribal  
10      acreage taken for construction of the dam;

11          (16) the payments and land transfers made pur-  
12      suant to this Act constitute fair and equitable com-  
13      pensation for the past and continued use of Spokane  
14      tribal land for the production of hydropower at  
15      Grand Coulee Dam; and

16          (17) by vote of the Spokane tribal membership,  
17      the Spokane Tribe has resolved that the payments and  
18      land transfers made pursuant to this Act constitute  
19      fair and equitable compensation for the past and con-  
20      tinued use of Spokane Tribal land for the production  
21      of hydropower at Grand Coulee Dam.

22   **SEC. 3. PURPOSE.**

23          The purpose of this Act is to provide fair and equitable  
24      compensation to the Spokane Tribe for the use of its land  
25      for the generation of hydropower by the Grand Coulee Dam.

1 **SEC. 4. DEFINITIONS.**

2 *In this Act:*

3 (1) *ADMINISTRATOR.*—The term “Adminis-  
4 trator” means the Administrator of the Bonneville  
5 Power Administration or the head of any successor  
6 agency, corporation, or entity that markets power  
7 produced at Grand Coulee Dam.

8 (2) *COLVILLE SETTLEMENT AGREEMENT.*—The  
9 term “Colville Settlement Agreement” means the Set-  
10 tlement Agreement entered into between the United  
11 States and the Colville Tribes, signed by the United  
12 States on April 21, 1994, and by the Colville Tribes  
13 on April 16, 1994, to settle the claims of the Colville  
14 Tribes in Docket 181–D of the Indian Claims Com-  
15 mission, which docket was transferred to the United  
16 States Court of Federal Claims.

17 (3) *COLVILLE TRIBES.*—The term “Colville  
18 Tribes” means the Confederated Tribes of the Colville  
19 Reservation.

20 (4) *COMPUTED ANNUAL PAYMENT.*—The term  
21 “Computed Annual Payment” means the payment  
22 calculated under paragraph 2.b. of the Colville Settle-  
23 ment Agreement, without regard to any increase or  
24 decrease in the payment under section 2.d. of the  
25 agreement.

1           (5) *CONFEDERATED TRIBES ACT.*—*The term*  
 2           *“Confederated Tribes Act” means the Confederated*  
 3           *Tribes of the Colville Reservation Grand Coulee Dam*  
 4           *Settlement Act (108 Stat. 4577).*

5           (6) *FUND.*—*The term “Fund” means the Spo-*  
 6           *kane Tribe of Indians Settlement Fund established by*  
 7           *section 5.*

8           (7) *SECRETARY.*—*The term “Secretary” means*  
 9           *the Secretary of the Interior.*

10          (8) *SPOKANE BUSINESS COUNCIL.*—*The term*  
 11          *“Spokane Business Council” means the governing*  
 12          *body of the Spokane Tribe under the constitution of*  
 13          *the Spokane Tribe.*

14          (9) *SPOKANE TRIBE.*—*The term “Spokane*  
 15          *Tribe” means the Spokane Tribe of Indians of the*  
 16          *Spokane Reservation, Washington.*

17 **SEC. 5. SETTLEMENT FUND.**

18          (a) *ESTABLISHMENT OF FUND.*—*There is established*  
 19          *in the Treasury of the United States an interest-bearing*  
 20          *trust fund to be known as the “Spokane Tribe of Indians*  
 21          *Settlement Fund”, consisting of—*

22               (1) *amounts deposited in the Fund under sub-*  
 23               *section (b); and*

24               (2) *any interest earned on investment of*  
 25               *amounts in the Fund.*

1       (b) *DEPOSITS.*—*From amounts made available under*  
 2 *section 11—*

3           (1) *for fiscal year 2006, the Secretary shall de-*  
 4 *posit in the Fund \$17,800,000; and*

5           (2) *for each of the 4 fiscal years thereafter, the*  
 6 *Secretary shall deposit in the Fund \$12,800,000.*

7       (c) *MAINTENANCE AND INVESTMENT OF FUND.*—*The*  
 8 *Fund shall be maintained and invested by the Secretary*  
 9 *in accordance with the Act of June 24, 1938 (25 U.S.C.*  
 10 *162a).*

11       (d) *PAYMENT OF FUNDS TO SPOKANE BUSINESS*  
 12 *COUNCIL.*—

13           (1) *REQUEST.*—*At any time after funds are de-*  
 14 *posited in the Fund, the Spokane Business Council*  
 15 *may submit to the Secretary written notice of the*  
 16 *adoption by the Spokane Business Council of a reso-*  
 17 *lution requesting that the Secretary pay all or a por-*  
 18 *tion of the amounts in the Fund to the Spokane Busi-*  
 19 *ness Council.*

20           (2) *PAYMENT.*—*Not later than 60 days after re-*  
 21 *ceipt of a notice under paragraph (1), the Secretary*  
 22 *shall pay the amount requested to the Spokane Busi-*  
 23 *ness Council.*

24       (e) *USE OF FUNDS.*—

1           (1) *CULTURAL RESOURCE REPOSITORY AND IN-*  
2           *TERPRETIVE CENTER.*—

3                   (A) *IN GENERAL.*—*Of the initial deposit*  
4                   *under subsection (b)(1), \$5,000,000 shall be used*  
5                   *by the Spokane Business Council for the plan-*  
6                   *ning, design, construction, equipping, and con-*  
7                   *tinuing operation and maintenance of a Cul-*  
8                   *tural Resource Repository and Interpretive Cen-*  
9                   *ter to—*

10                   (i) *house, preserve, and protect the bur-*  
11                   *ial remains, funerary objects, and other cul-*  
12                   *tural resources affected by the operation of*  
13                   *the Grand Coulee Dam; and*

14                   (ii) *provide an interpretive and edu-*  
15                   *cational facility regarding the culture and*  
16                   *history of the Spokane Tribe.*

17                   (B) *EFFECT.*—*The funding under subpara-*  
18                   *graph (A) does not alter or affect any authority,*  
19                   *obligation, or responsibility of the United States*  
20                   *under—*

21                   (i) *the Native American Graves Protec-*  
22                   *tion and Repatriation Act (25 U.S.C. 3001*  
23                   *et seq.);*

24                   (ii) *the Archaeological Resources Pro-*  
25                   *tection Act (16 U.S.C. 470aa et seq.);*

1                   (iii) the National Historic Preserva-  
2                   tion Act (16 U.S.C. 470 et seq.); or

3                   (iv) the National Environmental Pol-  
4                   icy Act of 1969 (42 U.S.C. 4321 et seq.).

5                   (2) *OTHER USES.*—Of all other amounts depos-  
6                   ited in the Fund (including interest generated on  
7                   those amounts)—

8                   (A) 25 percent shall be—

9                   (i) reserved by the Spokane Business  
10                  Council; and

11                  (ii) used for discretionary purposes of  
12                  general benefit to all members of the Spo-  
13                  kane Tribe; and

14                  (B) 75 percent shall be used by the Spokane  
15                  Business Council to carry out—

16                  (i) resource development programs;

17                  (ii) credit programs;

18                  (iii) scholarship programs; or

19                  (iv) reserve, investment, and economic  
20                  development programs.

21 **SEC. 6. PAYMENTS BY THE ADMINISTRATOR.**

22                  (a) *INITIAL PAYMENT.*—On March 1, 2007, the Ad-  
23                  ministrator shall pay the Spokane Tribe—

24                  (1) the amount that is equal to 29 percent of the  
25                  Computed Annual Payment, for fiscal year 2005, ad-

1       justed to reflect the change in the Consumer Price  
 2       Index for all urban consumers published by the De-  
 3       partment of Labor, from the date on which the pay-  
 4       ment for fiscal year 2005 was made to the Colville  
 5       Tribes to the date on which payment is made to the  
 6       Spokane Tribe under this subparagraph; and

7               (2) the amount that is equal to 29 percent of the  
 8       Computed Annual Payment for fiscal year 2006.

9       (b) *SUBSEQUENT PAYMENTS.*—On or before March 1,  
 10   2008, and March 1 of each year thereafter, the Adminis-  
 11   trator shall pay the Spokane Tribe the amount that is equal  
 12   to 29 percent of the Computed Annual Payment for the pre-  
 13   vious fiscal year.

14   **SEC. 7. TREATMENT AFTER FUNDS ARE PAID.**

15       (a) *USE OF PAYMENTS.*—Payments made to the Spo-  
 16   kane Business Council or Spokane Tribe under section 5  
 17   or 6 may be used or invested by the Business Council in  
 18   the same manner and for the same purposes as other Spo-  
 19   kane Tribe governmental funds.

20       (b) *NO TRUST RESPONSIBILITY OF THE SEC-*  
 21   *RETARY.*—Neither the Secretary nor the Administrator  
 22   shall have any trust responsibility for the investment, su-  
 23   pervision, administration, or expenditure of any funds after  
 24   the date on which the funds are paid to the Spokane Busi-  
 25   ness Council or Spokane Tribe under section 5 or 6.

1       (c) *TREATMENT OF FUNDS FOR CERTAIN PUR-*  
 2 *POSES.*—*The payments of all funds to the Spokane Business*  
 3 *Council and Spokane Tribe under sections 5 and 6, and*  
 4 *the interest and income generated by the funds, shall be*  
 5 *treated in the same manner as payments under section 6*  
 6 *of the Saginaw Chippewa Indian Tribe of Michigan Dis-*  
 7 *tribution of Judgment Funds Act (100 Stat. 677).*

8       (d) *TRIBAL AUDIT.*—*After the date on which funds are*  
 9 *paid to the Spokane Business Council or Spokane Tribe*  
 10 *under section 5 or 6, the funds shall—*

11           (1) *constitute Spokane Tribe governmental*  
 12 *funds; and*

13           (2) *be subject to an annual tribal government*  
 14 *audit.*

15 **SEC. 8. REPAYMENT CREDIT.**

16       (a) *IN GENERAL.*—*The Administrator shall deduct*  
 17 *from the interest payable to the Secretary of the Treasury*  
 18 *from net proceeds (as defined in section 13 of the Federal*  
 19 *Columbia River Transmission System Act (16 U.S.C.*  
 20 *838k))—*

21           (1) *in fiscal year 2007, \$2,600,000; and*

22           (2) *in each subsequent fiscal year in which the*  
 23 *Administrator makes a payment under section 6,*  
 24 *\$1,300,000.*

25       (b) *CREDITING.*—



1           (1) *IN GENERAL.*—*Except as provided in para-*  
2           *graphs (2) and (3), each deduction made under this*  
3           *section shall be—*

4                   (A) *a credit to the interest payments other-*  
5                   *wise payable by the Administrator to the Sec-*  
6                   *retary of the Treasury during the fiscal year in*  
7                   *which the deduction is made; and*

8                   (B) *allocated pro rata to all interest pay-*  
9                   *ments on debt associated with the generation*  
10                  *function of the Federal Columbia River Power*  
11                  *System that are due during the fiscal year.*

12           (2) *DEDUCTION GREATER THAN AMOUNT OF IN-*  
13           *TEREST.*—*If, in any fiscal year, the deduction is*  
14           *greater than the amount of interest due on debt asso-*  
15           *ciated with the generation function for the fiscal year,*  
16           *the amount of the deduction that exceeds the interest*  
17           *due on debt associated with the generation function*  
18           *shall be allocated pro rata to all other interest pay-*  
19           *ments due during the fiscal year.*

20           (3) *CREDIT.*—*To the extent that a deduction ex-*  
21           *ceeds the total amount of interest described in para-*  
22           *graphs (1) and (2), the deduction shall be applied as*  
23           *a credit against any other payments that the Admin-*  
24           *istrator makes to the Secretary of the Treasury.*

1 **SEC. 9. TRANSFER OF ADMINISTRATIVE JURISDICTION AND**  
 2 **RESTORATION OF OWNERSHIP OF LAND.**

3 (a) *TRANSFER OF JURISDICTION.*—*The Secretary shall*  
 4 *transfer administrative jurisdiction from the Bureau of*  
 5 *Reclamation to the Bureau of Indian Affairs over—*

6 (1) *all land acquired by the United States under*  
 7 *the Act of June 29, 1940 (16 U.S.C. 835d), that is lo-*  
 8 *cated within the exterior boundaries of the Spokane*  
 9 *Indian Reservation established pursuant to the Exec-*  
 10 *utive Order of January 18, 1881; and*

11 (2) *all land on the south bank of the Spokane*  
 12 *River that—*

13 (A) *extends westerly from Little Falls Dam*  
 14 *to the confluence of the Spokane River and Co-*  
 15 *lumbia River; and*

16 (B) *is located at or below contour elevation*  
 17 *1290 feet above sea level.*

18 (b) *RESTORATION OF OWNERSHIP IN TRUST.*—*All*  
 19 *land transferred under this section—*

20 (1) *shall be held in trust for the benefit and use*  
 21 *of the Spokane Tribe; and*

22 (2) *shall become part of the Spokane Indian Res-*  
 23 *ervation.*

24 (c) *RESERVATION OF RIGHTS.*—

25 (1) *IN GENERAL.*—*The United States reserves a*  
 26 *perpetual right, power, privilege, and easement over*

1        *the land transferred under this section to carry out*  
 2        *the Columbia Basin Project under the Columbia*  
 3        *Basin Project Act (16 U.S.C. 835 et seq.).*

4            (2) *RIGHTS INCLUDED.—The rights reserved*  
 5        *under paragraph (1) further include the right to oper-*  
 6        *ate, maintain, repair, and replace boat ramps, docks,*  
 7        *and other recreational facilities owned or permitted*  
 8        *by the United States and existing on the date of en-*  
 9        *actment of this Act.*

10           (3) *MEMORANDUM OF UNDERSTANDING.—The*  
 11        *cognizant agencies of the Department of the Interior*  
 12        *shall enter into a memorandum of understanding*  
 13        *with the Spokane Tribe to provide for coordination in*  
 14        *applying this subsection.*

15    **SEC. 10. SATISFACTION OF CLAIMS.**

16        *Payment by the Secretary under section 5 and the Ad-*  
 17        *ministrator under section 6 and restoration of ownership*  
 18        *of land in trust under section 9 constitute full satisfaction*  
 19        *of the claim of the Spokane Tribe to a fair share of the*  
 20        *annual hydropower revenues generated by the Grand Coulee*  
 21        *Dam project for the past and continued use of land of the*  
 22        *Spokane Tribe for the production of hydropower at Grand*  
 23        *Coulee Dam.*

1 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

2       *There are authorized to be appropriated such sums as*  
3 *are necessary to carry out this Act.*

Amend the title so as to read: “A bill to provide for equitable compensation to the Spokane Tribe of Indians of the Spokane Reservation for the use of tribal land for the production of hydropower by the Grand Coulee Dam, and for other purposes.”.



Calendar No. 787

108TH CONGRESS  
2D Session

**S. 1438**

[Report No. 108-397]

**A BILL**

To provide for equitable compensation of the Spokane Tribe of Indians of the Spokane Reservation in settlement of claims of the Tribe concerning the contribution of the Tribe to the production of hydropower by the Grand Coulee Dam, and for other purposes.

OCTOBER 8, 2004

Reported with an amendment and an amendment to the title